

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA

FILED
U.S. DISTRICT COURT
AT NEW YORK
2007 MAY 26 P 2:26

CLEVERLY *Spence Cartby*

V.

Respondent.

CV 309-002

After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge's Report and Recommendation, to which objections have been filed. The Magistrate Judge recommended that the instant petition be dismissed because it did not state a claim for relief under § 2241. (Doc. no. 4, pp. 2-3). The Magistrate Judge noted the petition was also subject to dismissal for failure to exhaust administrative remedies. (*Id.* at 3-4).

Petitioner has asserted in his objections that exhaustion would be futile, claiming that he cannot “gain any relief through the” Bureau of Prison’s administrative remedy process “owing to their unfair practices.” (Doc. no. 6, p. 2). The Court has previously considered and rejected this same argument in Rodriguez v. Wells, Civil Case No. 309-005, doc. no. 11 (S.D. Ga. Apr. 14, 2009). As Petitioner has provided nothing new that would justify excepting him from the exhaustion requirement, this objection is **OVERRULED**.¹

¹The remainder of Petitioner's objections are likewise without merit and are also **OVERRULED.**

Accordingly, the Report and Recommendation of the Magistrate Judge is **ADOPTED** as the opinion of the Court. Therefore, the above-captioned petition filed pursuant to 28 U.S.C. § 2241 is **DISMISSED**, and this case is **CLOSED**.

SO ORDERED this 26th day of May, 2009, at Augusta, Georgia.


UNITED STATES DISTRICT JUDGE